

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MULTI MEDIA, LLC.)
a California Limited Liability Corporation,)
)
Plaintiff,)) NO. 16 C 6571
v.)) Judge John Blakey
MATTHEW COOK,)) Magistrate Susan Cox
Defendant.))

**PLAINTIFF'S MOTION FOR LEAVE TO SERVE THIRD-PARTY SUBPOENAS
PRIOR TO A RULE 26(f) CONFERENCE**

Pursuant to Fed. R. Civ. P. 26(d)(1), Plaintiff, Multi Media, LLC, moves for entry of an order granting Plaintiff leave to serve third-party subpoenas prior to a Rule 26(f) conference and represents unto the Court as follows:

1. Plaintiff seeks leave to serve limited, immediate discovery on Comcast Cable Communications Holdings, Inc. (“Comcast”) and T-Mobile USA, Inc. (“T-Mobile”), which are Internet Service Providers (“ISPs”) used by Defendant, Matthew Cook, so that Plaintiff may learn Defendant’s whereabouts for service of process.
2. Plaintiff has alleged actionable claims for fraud and violations of 18 U.S.C. § 1030 against Defendant based on Defendant’s repeated use of stolen credit card account information to make fraudulent purchases through Plaintiff’s website business.
3. Defendant continues to this day to repeatedly make fraudulent purchases on Plaintiff’s website using new account information each time, making pre-detection and prevention of Defendant’s conduct impossible for Plaintiff.
4. Since Defendant used the Internet for his fraudulent activity, Plaintiff knows Defendant by at least one Internet Protocol (“IP”) address assigned by Defendant’s ISP to Defendant

when he accessed Plaintiff's website. Internet subscribers rely on ISPs to provide access to the Internet, which requires that each subscriber is assigned an IP address at the time the user connects. ISPs keep records (for a limited time) of the IP addresses that were assigned to each of their customers on a particular day and time. Accordingly, Defendant's ISPs, Comcast and T-Mobile, have the records necessary to identify Defendant as the user responsible for the fraudulent transactions alleged in Plaintiff's Complaint.

5. Plaintiff has engaged the services of an investigator to perform a "skip trace" on Defendant to determine his current place of residence. *See Affidavit of Fischer*, submitted herewith as Exhibit A, at ¶ 13.
6. The investigator, however, has been unable to determine a current address for Defendant after diligent efforts. *See Fischer Affidavit* at ¶ 15. Plaintiff is aware that Defendant has accessed Plaintiff's website from an IP address located in Chicago, Illinois. *See Fischer Affidavit* at ¶ 11.
7. Plaintiff, therefore, seeks leave of Court to serve Rule 45 subpoenas on Comcast and T-Mobile, as well as any related intermediary customer identified by Comcast or T-Mobile. Any such subpoenas will demand the names, current addresses, telephone numbers, email addresses, and billing information of Defendant or any party assisting Defendant by providing use of an Internet connection.
8. Plaintiff shall only use this information to prosecute the claims made in its Complaint. Without this information, Plaintiff cannot serve Defendant, nor pursue this lawsuit to protect its valuable business and other economic interests. Also, because Comcast is a cable television service provider, subject to the Cable Privacy Act (47 U.S.C. § 551),

which prohibits Comcast from disclosing personally identifiable information concerning subscribers without the prior written or electronic consent of the subscriber or a court order, Plaintiff requests that the Court's Order state clearly that the Court has contemplated the Cable Privacy Act, and that the Order specifically complies with the Cable Privacy Act's requirements.

WHEREFORE, Plaintiff prays that its Motion for Leave to Serve Third-Party Subpoenas Prior to a Rule 26(f) Conference be granted.

s/Wayne B. Giampietro
Attorney for Plaintiff

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